

OLIVA
Appl. No. 09/497,552

REMARKS/ARGUMENTS

Reexamination of the captioned application is respectfully requested.

A. SUMMARY OF THIS AMENDMENT

By the current amendment, Applicant:

1. Thanks the Examiner for the indicated allowability of claims 6 – 8, 10, 17-21, 23, 25, 27 – 28, 30, and 31.
2. Editorially amends the specification in the manner requested in the second enumerated paragraph of the Office Action.
3. Amends claims 1, 7, 8, 15, 16, 22, 27, 28, 29, 31, and 36 to moot the rejections under 35 USC §112, second paragraph, and editorially otherwise.
4. Amends independent claims 1 and 29 to include a limitation concerning the integral nature of the first means.
5. Rewrites allowable claim 17 as an independent claim, by including limitations from independent claim 1 which pre-dated this amendment (except for Fresnel number limitations) and limitations from dependent claim 16, and by amending an expression referring to the number of teeth.
6. Rewrites allowable claim 21 as an independent claim, by including limitations from independent claim 1 which pre-dated this amendment (except for Fresnel number limitations) and limitations from dependent claim 16.
7. Rewrites allowable claim 23 as an independent claim, by including limitations from independent claim 1 which pre-dated this amendment (except for Fresnel number limitations) and limitations from dependent claim 16, as well as limitations from claim 22.
8. Rewrites allowable claim 25 as an independent claim, by including limitations from independent claim 1 which pre-dated this amendment

OLIVA
Appl. No. 09/497,552

(except for Fresnel number limitations) and limitations from dependent claim 16, as well as limitations from claim 22.

9. Adds new dependent claim 37 (similar to existing dependent claim 15, but dependent upon claim 35).
10. Respectfully traverses all prior art rejections (see §B *infra*).
11. Respectfully traverses the provisional obviousness type double patenting rejection (see §C *infra*).

B. PATENTABILITY OF THE CLAIMS

Claims 32 – 35 stand rejected under 35 USC §102(e) as being anticipated by US Patent 6,342,976 to Nomura et al. Claims 1, 2, 4, 5, 9, 16, 22, 24, 26, and 29 stand rejected under 35 USC §103(a) as being unpatentable over US Patent 5,233,170 to Metlitsky et al. All prior art rejections are respectfully traversed.

The 35 USC §102(e) of claims 32 – 35 rejections, which are premised upon US Patent 6,342,976 to Nomura et al., fail for essentially similar reasons as (now withdrawn) prior rejections based upon US Patent 5,886,332 to Plesko. Recall that Plesko disclosed means for scattering or blocking a portion of the light beam which are directly applied on the focusing lens, so that only a portion of the laser beam collected by the focusing lens is focused.

It was pointed out previously that independent claim 32 recites that the first means for separating a central portion of the laser beam from a surrounding portion of the laser beam is disposed on a surrounding portion of the optical element. Thus, for the purposes of independent claim 32, Applicant's first means forms part of the optical element, but does not form a part of the focusing lens. Rather, Applicant's focusing lens is disposed in a central portion of the single optical element, so that the entire central portion of the laser beam collected by the focusing lens (e.g., all the portion of the laser beam incident on the focusing lens) is focused. In other words, the first means recited in claim 32 are

OLIVA
Appl. No. 09/497,552

neither part, or directly applied on, the focusing lens thus allowing the entire central portion of the laser beam collected by the focusing lens to be focused.

As now explained, US Patent 6,342,976 to Nomura et al. is no better than US Patent 5,886,332 to Plesko. US Patent 6,342,976 to Nomura et al. discloses a lens 11 for use in a DVD and CD reader. The front or rear surface of the lens 11 itself is treated at a peripheral circular crown thereof in order to allow only a central portion of the incident beam or the whole incident beam to cross the lens, depending on the wavelength of the beam (see col. 2, lines 25-59, col. 4, lines 38-55, col. 5, lines 3-14 and from col. 5, line 43 to col. 6, line 37 referring to Fig. 4). Specifically, Nomura's lens 11 is treated at a peripheral portion thereof by forming a diffraction grating (by means of titanium dioxide deposition, sputtering, plating, etc.; see col. 5, line 60 and col. 6, line 13) or by depositing a reflecting film (col. 6, lines 26-33). It is evident from the cited passages and from Fig. 4 that it is the surface itself of the lens which is treated and that there is not a separate element which is applied on and around an outer edge of the lens to result in one composite optical element. In Nomura the lens receives the whole beam and not only a central portion thereof. Then, due to the treated peripheral portion of the lens, part of the beam, which in any case has been collected by the lens, is not focused, being instead diffracted in other directions or reflected by the material deposited on the lens surface.

The foregoing enlightenment should prompt withdrawal of rejections premised upon US Patent 6,342,976 to Nomura et al. in same manner as the earlier withdrawal of rejections based on US Patent 5,886,332 to Plesko.

The rejections under 35 USC 103(a) premised upon US Patent 5,233,170 to Metlitsky et al. is also respectfully traversed. As seen in Figs. 3 and 4 thereof, the aperture 36 and optical lens 34 of US Patent 5,233,170 to Metlitsky et al. are two separate optical elements which abut one another. US Patent 5,233,170 to Metlitsky et al. is thus totally contrary to the independent claims to which it was applied: Independent claim 1

OLIVA
Appl. No. 09/497,552

as now amended requires that the first means be integrally applied on the focusing lens; independent claim 29 as now amended requires the (first) means be integral with the focusing lens.

The integral nature required by independent claims 1 and 29 overcomes a drawback suffered by structures such as that of Metlitsky wherein two optical elements are juxtaposed. For example, Metlitsky unfortunately requires, during the assembling operation of the device, a critical fine positioning step of the aperture 36 with respect to the optical lens 34 in order to obtain the required optical alignment.

Applicant, by contrast, in the structure of independent claim 1 and independent claim 29, overcomes this potential problem in that the first means are directly applied on the focusing lens. That is, the first means are integral with the focusing lens so that they cannot move relatively to each other. This obviates a painstaking fine positioning step, thereby simplifying the optical alignment and the assembling operation and making the device more compact (and reducing the cost thereof!).

For the above and other reasons, it is respectfully submitted that all prior art rejections should be withdrawn.

C. PROVISIONAL OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claims 1, 2, 4, 5, 11 - 15, 29, 32 - 36 are again provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims of US Patent application Serial Number 09/773,384. The provisional obviousness-type double patenting rejection is inappropriate, particularly since (as explained in section B hereof) all claims are now allowable. The application thus stands without any rejection other than the obviousness-type double patenting rejection, in which case the last two paragraphs of MPEP §804(I)(B) are operative. The obviousness-type double patenting rejection thus should be withdrawn.

OLIVA
Appl. No. 09/497,552

Without conceding any issue of obviousness either now or in the future, Applicant does not waive the right or possibility of filing in the future a Terminal Disclaimer in the captioned application in order to expedite prosecution of the captioned application.

D. MISCELLANEOUS

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application, including but not limited to additional claims fee and the extension of time fee.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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